

§ 85.925

acts, or a final determination of liability under the Program Fraud Civil Remedies Act of 1988 (31 U.S.C. 3801–3812).

Authority: E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989 Comp., p. 235); 20 U.S.C. 1082, 1094, 1221e-3 and 3474; and Sec. 2455, Pub. L. 103–355, 108 Stat. 3243 at 3327.

§ 85.925 Conviction.

Conviction means—

(a) A judgment or any other determination of guilt of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or plea, including a plea of *nolo contendere*; or

(b) Any other resolution that is the functional equivalent of a judgment, including probation before judgment and deferred prosecution. A disposition without the participation of the court is the functional equivalent of a judgment only if it includes an admission of guilt.

Authority: E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989 Comp., p. 235); 20 U.S.C. 1082, 1094, 1221e-3 and 3474; and Sec. 2455, Pub. L. 103–355, 108 Stat. 3243 at 3327.

§ 85.930 Debarment.

Debarment means an action taken by a debarring official under subpart H of this part to exclude a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1). A person so excluded is debarred.

Authority: E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989 Comp., p. 235); 20 U.S.C. 1082, 1094, 1221e-3 and 3474; and Sec. 2455, Pub. L. 103–355, 108 Stat. 3243 at 3327.

§ 85.935 Debarring official.

(a) *Debarring official* means an agency official who is authorized to impose debarment. A debarring official is either—

(1) The agency head; or

(2) An official designated by the agency head.

(b) [Reserved]

Authority: E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989 Comp., p. 235); 20 U.S.C. 1082, 1094, 1221e-3 and 3474; and Sec. 2455, Pub. L. 103–355, 108 Stat. 3243 at 3327.

34 CFR Subtitle A (7–1–06 Edition)

§ 85.940 Disqualified.

Disqualified means that a person is prohibited from participating in specified Federal procurement or non-procurement transactions as required under a statute, Executive order (other than Executive Orders 12549 and 12689) or other authority. Examples of disqualifications include persons prohibited under—

(a) The Davis-Bacon Act (40 U.S.C. 276(a));

(b) The equal employment opportunity acts and Executive orders; or

(c) The Clean Air Act (42 U.S.C. 7606), Clean Water Act (33 U.S.C. 1368) and Executive Order 11738 (3 CFR, 1973 Comp., p. 799).

Authority: E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989 Comp., p. 235); 20 U.S.C. 1082, 1094, 1221e-3 and 3474; and Sec. 2455, Pub. L. 103–355, 108 Stat. 3243 at 3327.

§ 85.942 ED Deciding Official.

The ED Deciding Official is an ED officer who has delegated authority under the procedures of the Department of Education to decide whether to affirm a suspension or enter a debarment.

Authority: E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989 Comp., p. 235); 20 U.S.C. 1082, 1094, 1221e-3 and 3474; and Sec. 2455 of Pub. L. 103–355, 108 Stat. 3243 at 3327.

[68 FR 66614, Nov. 26, 2003]

§ 85.945 Excluded or exclusion.

Excluded or exclusion means—

(a) That a person or commodity is prohibited from being a participant in covered transactions, whether the person has been suspended; debarred; proposed for debarment under 48 CFR part 9, subpart 9.4; voluntarily excluded; or

(b) The act of excluding a person.

Authority: E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989 Comp., p. 235); 20 U.S.C. 1082, 1094, 1221e-3 and 3474; and Sec. 2455, Pub. L. 103–355, 108 Stat. 3243 at 3327.

§ 85.950 Excluded Parties List System

Excluded Parties List System (EPLS) means the list maintained and disseminated by the General Services Administration (GSA) containing the names and other information about persons who are ineligible. The *EPLS* system includes the printed version entitled,